IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 509 OF 1992

State of Maharashtra ...Appellant.

V/s

Sanjeeva Korgappa Ali,
403, Gomati Building
"A" Wing, Sachidham, General
Arun Vaidya Marg,
Malad (East), Bombay 97 ...Respondent.

Mr. D.P. Adsule, APP for the State.

None for the respondent.

CORAM: V.M.KANADE,J.
DATE: 14th January, 2005

ORAL JUDGMENT:

1. The State has preferred this appeal against the Judgment and Order passed by the Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Bombay in Case No.1058/P/89. By the said Judgment and Order dated 8/6/1992, the learned Magistrate was pleased to acquit the accused of the offence punishable under section 498-A(b) and section 506(II) of the Indian Penal Code.

2. Prosecution case in brief is that the accused ill-treated the complainant and harassed her since she has not fulfilled his demand of dowry of Rs 25,000/-. Prosecution case is that the accused and the complainant got married in the year 1974.

Complainant's case is that the accused was suffering from venereal disease and also was addicted to liquor. It is her case that the applicant used to beat her after consuming alcohol. Complainant's case is that the accused had asked her to bring Rs 25,000/- from her brother and when she refused to comply with the said demand, he set her clothes on fire. Complainant has further deposed that on one occasion she has received an injury on her head and ear as a result of severe beating by the accused. P.W.2 - Janardhan who is the brother of the complainant has also stated that in September, 1975 when he was present in the house of the accused, he had witnessed the accused assaulting his sister. Prosecution has also relied on evidence of P.W.3 - Dr. Rekha Shah and P.W.4 - Dr. Rajaram Dubey. These doctors have deposed that the complainant had gone to their dispensary for treatment. P.W. 3 has stated that she has issued Medical Certificate and P.W.4 had treated the complainant for her mental ailment of strain and stress.

3. In my view, evidence which is brought on record is not sufficient to come to the conclusion that the accused had committed an offence under section 498-A and section 506(II) of the Indian Penal Code. It is a

well settled law that every act of cruelty would not fall within the four corners of section 498-A. Prosecution has established that the harassment has been caused with a view to force the wife to commit suicide or to fulfil illegal demand of dowry. The alleged demand of Rs 25,000/- has not been established as no particulars have been given as to when the said amount was demanded. The Trial Court, therefore, in my view, has correctly appreciated the evidence and acquitted the accused. No case is made out for interference by this Court with the judgment and order of the Trial Court. Appeal is accordingly dismissed.

V.M. KANADE,J.